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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/903,219

07/10/2001

Russell A. Houser

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07/19/2004

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EXAMINER

WOO, JULIAN W

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/903,219

Applicant(s)

HOUSER ET AL.

Examiner

Julian W. Woo

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 104, 105, 107 and 109-115 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 104, 105, 107 and 109-115 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 29, 2004 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 104, 105, 107, 109, 110, and 112-115 are rejected under 35 U.S.C. 102(b) as being anticipated by Venbrux (5,443,497). Venbrux discloses, in figures 2 and 3 and in col. 3, line 5 to col. 4, line 53, a catheter (37) and a connector (10) with an annular structure (116), at least one, radially deformable compressible member (112) having first and second segments (117, 118) extending from the distal end of the annular structure, where distal ends of the segments are attached to each

other (at 120) the compressible member has a first reduced profile and a second expanded profile, where first and second segments are curved when the compressible member is in the expanded profile, and where the first and second segments define a loop configuration. With respect to claims 107 and 109, the compressible member self-expands upon removal of the catheter (37) that provides a constraining force. With respect to claim 110, the compressible member comprises a memory elastic material. With respect to claims 112 and 113, the radially enlarged profile is substantially circular, if the compressible member is viewed along the longitudinal axis. With respect to claim 114, figure 3 discloses that the compressible member is configured to conform to and buttress surfaces of a vessel.

4. Claims 104, 105, 107, and 110-115 are rejected under 35 U.S.C. 102(e) as being anticipated by Huebsch et al. (5,853,422). With respect to claims 104, 105, 112, and 115, Huebsch et al. disclose a system, in figures 2-5b and in col. 3, line 49 to col. 4, line 51, comprising a catheter (40) and a connector with an annular structure (18), at least one, radially deformable compressible member (10) having first and second segments (22) extending from the distal end of the annular structure, where distal ends of the segments are attached to each other (at 16), where the compressible member has a first reduced profile and a second expanded profile, where first and second segments are curved when the compressible member is in the expanded profile (at 24), and where the first and second segments define a loop configuration. With respect to claim 107, the compressible member expands upon removal of the catheter (40) that provides a constraining force (e.g., see fig. 5b.) With respect to claims 110 and 111, the

Art Unit: 3731

compressible member comprises a memory elastic material, such as stainless steel, nickel titanium, or a thermoset plastic. With respect to claim 113, the radially enlarged profile is substantially circular, if the compressible member is viewed along the longitudinal axis. With respect to claim 114, figures 5a and 5b disclose that the compressible member is configured to conform to and buttress surfaces of a vessel.

Note: The introductory statement of intended use ("for connecting a tubular graft to a blood vessel or hollow organ") has been carefully considered but deemed not to impose any structural limitations on the claims patentably distinguishable over device of Huebsch et al., which is capable of being used as claimed if one desires to do so.

Response to Amendment

5. Applicant's arguments with respect to claims 104, 105, 107, and 109-115 have been considered but are moot in view of the new ground(s) of rejection and a reiteration of the rejection based on Huebsch et al.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is (703) 308-0421. The examiner can normally be reached Mon.-Fri., 7:00 AM to 3:00 PM Eastern Time, alternate Fridays off.

General inquiries relating to the status of this application should be directed to the Group receptionist at (703) 308-0858. The official FAX number is (703) 872-9306.

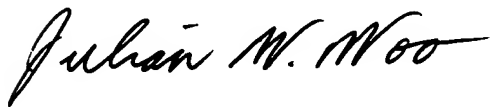
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 3731

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Julian W. Woo". The signature is fluid and cursive, with the first name "Julian" being more prominent than the last name "Woo".

Julian W. Woo
Primary Examiner

July 13, 2004